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**COUNTY OF LOS ANGELES  
DEPARTMENT OF CONSUMER AFFAIRS**

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Members of the Board


Gloria Molina  
Yvonne Brathwaite Burke  
Zev Yaroslavsky  
Don Knabe  
Michael D. Antonovich

Pastor Herrera, Jr.  
Director

October 31, 2003

TO: Supervisor Yvonne Brathwaite Burke, Chair  
Supervisor Gloria Molina  
Supervisor Zev Yaroslavsky  
Supervisor Don Knabe  
Supervisor Michael D. Antonovich

FROM: Pastor Herrera, Jr.   
Director, Los Angeles County Department of Consumer Affairs

Darline P. Robles, Ph.D.   
Superintendent, Los Angeles County Office of Education

**SUBJECT: Public, Educational, and Government ("PEG") Access Support**

On September 2, 2003, the Board of Supervisors ("Board") passed a motion (Item 58-F) instructing in Action 1 that the Director of Consumer Affairs ("DCA") report back on the feasibility of including in its negotiations with cable franchises, the inclusion of levying PEG fees for the specific purpose of funding capital expenditures related to educational purposes, and in Action 2 instructed the Superintendent of Schools (Los Angeles County Office of Education or "LACOE") to work with the Director of Consumer Affairs on a plan for any revenue generated as a result of the PEG fees and report back to the Board. This report addresses both actions.

**Action 1 - Feasibility of Negotiating Public, Educational, and Governmental Fees**

To determine the feasibility of negotiating PEG support now, DCA asked the County's cable television operators to modify their current cable television franchises to include additional PEG financial support or in conjunction with any term extension of their franchises which may be upcoming.

All but one of the County's cable operators responded that they are not willing to amend their existing franchise agreements with the County to include new PEG support. Their reasons for not granting our request varied. The predominant issue centered around the concern that modifying the terms of the franchise agreements separate from negotiating all the terms involved in a new long-term agreement, would set a dangerous precedent for them. Some operators felt that PEG support should come from the franchise fees that the County realizes from the cable operators use of the County

rights-of-way. Another operator stated that the imposition of any additional costs would place an unfair burden on them and their subscribers. The same operator stated that this increase in their costs would make it even more difficult for them to compete against satellite dish companies and that ultimately they would recover these costs from cable subscribers, many of whom are low income seniors.

One cable operator with approximately 600 unincorporated County cable subscribers, is willing to discuss the possibility of negotiating amended terms in its existing franchise agreement to include a capital grant for PEG support. DCA will schedule a meeting with this operator to determine if mutually satisfactory terms can be negotiated.

As a result, DCA believes that the most appropriate time for discussing PEG support is during our long-term franchise negotiations that will be starting in 2004.

### **PEG Support for Capital Expenditures**

Under Federal Law (the "1984 Cable Act," as amended), the County is permitted to negotiate for what is called PEG (Public, Educational and Governmental) Access support. PEG Access support typically includes cable system channel capacity, facilities and equipment. Except to the extent their franchises (contracts) require PEG Access support, cable companies have no obligation to provide it. It must be negotiated.

PEG Access support may be used for capital expenditures such as equipment and facilities needed to produce programming, including educational programming, without any deduction from the maximum allowable franchise fees paid to the County of 5% of the cable company's gross annual revenue. However, to the extent that PEG Access support is used for operating expenses, such as salaries, those amounts may be deducted from the franchise fees paid to the County. Thus typically, PEG Access Support is limited to capital expenditure use.

Additionally, monies collected for PEG support may appear as a separate and itemized cost on subscribers' cable bills should the operator opt to charge subscribers for the PEG Access support.

### **Current PEG Access Support**

DCA has negotiated PEG support as a standard part of its new cable franchise and Open Video Service ("OVS") negotiations. In April of 2003, DCA negotiated an OVS agreement with Altrio Communications to serve portions of the San Gabriel Valley. That agreement requires Altrio to pay the County fifty-cents (\$0.50) per subscriber, per month for PEG support.

Adelphia Communications is unwilling to negotiate new PEG access support funding prior to the negotiation of a new long-term franchise with the County. However, Adelphia has already been contributing PEG funding for the Hacienda Heights and

South Whittier franchise areas as required by its franchises. Previously however, this money was not coming to the County and the County had no control over how the money was spent.

DCA has just negotiated modification of the PEG support terms with Adelphia for the two-year extension (January 1, 2004 - December 31, 2005) of the Hacienda Heights and South Whittier franchises. The modified terms call for funding to be paid by Adelphia to the County in the amounts of \$195,600 (Hacienda Heights) and \$79,200 (South Whittier) for a total of \$274,800. These funds are to be paid into a County trust fund. The Board can direct the distribution of these funds as it relates to PEG access capital support uses.

### **Future Feasibility and Intention**

It is customary to negotiate the substantial terms of franchise agreements during franchise renegotiation discussions or when considering the grant of a new franchise. Because of the "give and take" that occurs during these times, the County has substantially more leverage to obtain terms and conditions, such as PEG support, to benefit the residents of the County.

DCA's intention as it faces the upcoming renegotiation of many long-term cable television franchises is to negotiate for PEG financial support broadly. This will give the Board of Supervisors the flexibility to determine how these monies are spent, within the legal confines of capital expenditures for PEG access related uses.

In preparation for the renegotiation of many County cable television franchises, DCA recently submitted to the Board for their consideration, several cable television franchise ordinances with amendments to extend the franchises. This will allow time for DCA and County Counsel to make necessary revisions to the Los Angeles County Code Title 16 Division 4, Master Cable Television System Franchise Ordinance. This section of the County Code needs significant revision due to changes in laws, technology and monetary compensation. DCA will also be developing a model cable television franchise agreement to establish continuity among the County's 36 cable franchises.

After these changes and at time of franchise renegotiations, it is expected that the negotiation of PEG support will be more feasible.

### **Action 2 – LACOE's Plan for any Revenue Generated as a Result of PEG Fees**

The Los Angeles County Office of Education serves the most populous county in the nation, including about 1.7 million students in 81 school districts covering 4,081 square miles. Delivering educational services to such a large and diverse population requires enterprise level communication systems, including video conferencing and cable television.

LACOE maintains two television studios, and has provided Distance Learning television programs for over 12 years, to school districts state-wide via Public Broadcast Stations. LACOE is now seeking support for the creation of a Los Angeles County Education channel, for the purpose of delivering critical services and programs via cable systems directly to county schools and the communities served. These services and programs include:

- Special Education
- Alternative Education
- Juvenile Court and Community Schools
- Parent Education
- Head Start Family Services
- Safe Schools Center
- After School Enrichment Program
- Professional Development

In addition to the specific programs mentioned above, a county-wide educational channel would allow these, and additional programs to be viewed by over 80,000 teachers and administrators. Additionally, the Academic Bowl and other county and state-wide programs will benefit from the ability to reach school districts directly. Programming can be provided in both English and Spanish. The primary objective of LACOE's role is to be a service provider to the majority of school districts in the County who do not have access to television studios and related video production and distribution resources.

The steps required to begin the formation of an education cable channel for Los Angeles County should begin with the following:

- Cable drops to every school district located in unincorporated areas of Los Angeles county
- Head-end/two-way fiber connection from LACOE television studios to county cable interconnect, and Los Angeles County High School for the Arts
- Digital television equipment to include studio/field cameras to support production of educational content produced at LACOE, and other locations including, the Los Angeles County High School for the Arts

#### **DCA - LACOE PARTNERSHIP ESTABLISHED**

As a result of this motion, DCA and LACOE have begun discussing what provisions in the County's cable television franchises may be able to address the needs identified by the Office of Education.

In furtherance of the needs identified by LACOE in this report, DCA has begun to address the issue of getting free cable drops to public schools in the unincorporated areas. DCA and LACOE will continue to work together to determine how to best serve the needs of the Los Angeles County School Districts in the upcoming franchise negotiations.

## CONCLUSION

The negotiation of new terms in the existing cable television franchises has not proved to be feasible outside of a long-term renegotiation of the cable television franchises, with the exception of one cable operator that is willing to discuss it. DCA will begin discussions with this cable operator as soon as possible and will begin renegotiating the other long-term agreements in 2004 since the majority of the 36 cable franchises will be expiring at the end of 2005. By the modification of the pre-existing PEG support terms in two of the County franchises, new PEG support fees in the amount of \$274,800 will be collected by the County no later than March of 2004. DCA and LACOE will continue to work together to address the cable-related needs of the Los Angeles County schools districts.

If you have any questions please contact Pastor Herrera, Jr. at (213) 974-9750.

c: Board Chief Deputies  
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